

Concerning R_3 being hydrogen instead of a methyl group, the Examiner states that “this is related to a homologue of Ahlheim et al’s compound.” Per the Examiner, it is “well established” that the substitution of methyl for hydrogen on a known compound is not a patentable modification absent unexpected or unobvious results. Furthermore, the Examiner states, if a person of ordinary skill in the art had desired to increase the lipophilicity of Ahlheim et al’s compound, it would have been obvious to have changed R_3 from a methyl group to hydrogen. Therefore, the Examiner reasons, it would have been obvious to have selected the “claimed compounds” from routine experimentation on the polymerization reaction of “the compounds” so as to optimize the reaction.

In paragraph No. 5 of the Action, claims 2-3 and 5-9 are objected to as being dependent upon a rejected base claim, but are indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicants submit that the § 103 rejection should be withdrawn because Ahlheim et al. does not disclose or render obvious the compounds of the present claims.

As an initial matter, Applicants respectfully note that the Examiner’s position continues to be internally inconsistent. The scope of present claim 1 corresponds to the scope of claims 2-3 and 5-9 considered collectively. Therefore, it is internally inconsistent for the Examiner to say that claim 1 is unpatentable over Ahlheim et al but claims 2-3 and 5-9 would be allowable if rewritten in independent form.

It appears to Applicants that the Examiner’s assertion of unpatentability pertains mainly to present claim 5 and to claim 1 insofar as it includes the compound of claim 5. The compound